

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 430 of 1998

to

FIRST APPEAL No 445 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SPECIAL LAND ACQUISITION OFFICER

Versus

RANJITSINH PRATAPSINH CHAUHAN

Appearance:

MS HARSHA DEVANI, AGP for Appellants

MR KM SHETH, for Respondents- Orig. Claimants

CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 15/04/98

ORAL COMMON JUDGEMENT (PER : Y.B.BHATT, J)

Heard the ld. counsel for the respective parties.

Appeals admitted. Ld. Counsel Mr. KM Sheth waives service for the respondents- original claimants.

2. At the joint request of the ld. counsel for the respective parties, these appeals are taken up for final hearing today.

3. These appeals have been filed on behalf of the State under Sec.54 of the Land Acq. Act read with Sec.96 of the C.P.Code, challenging the common judgment and awards passed by the Reference Court under Sec.18 of the said Act.

4. The lands of respondents- original claimants were acquired for construction of Narmada Canal, and are situated in the village Kalyana, Ta: Godhara, under a notification issued under Sec.4 of the said Act published on 26.3.1992.

5. As a result of hearing and discussion, and with reference to such documents as have been referred to us by the ld. counsel for the respective parties, we find that the Reference Court has relied mainly upon the capitalisation method applied to the net agricultural yield of the lands under acquisition. As a result of this exercise, the Reference Court has determined the market value of the acquired lands at the rate of Rs. 9.50 per sq.mt. for irrigated lands and at the rate of Rs.8.50 per sq.mt. for non-irrigated lands. On a total conspectus of the evidence pertaining to the agricultural lands, the ld. counsel for the appellant is unable to substantially assail the evidence on record so as to point out any infirmity and/or an error on principle on the basis of which this determination arrived at by the Reference Court can, in any manner, be regarded to be excessive.

5.1 We are in agreement with the appreciation of evidence on the part of the Reference Court, the findings of the facts recorded and conclusions drawn for the purpose of arriving at the market value of the lands under acquisition.

6. Even otherwise, we find that there is ample corroboration available from other evidentiary material on record which the Reference Court has chosen not to accept, with which we may not entirely agree.

6.1 In this context, the claimants sought to rely upon exh.32 which is a certified copy of the judgment and award of the District Court in another Land Reference Case pertaining to the adjoining and contiguous village namely village Timba. This judgment and award under Sec.18 was not accepted by the State of Gujarat and an

appeal was filed against the said decision before this High Court. This Court, by its judgment and order at exh.33, determined the market rate of the lands of village Timba at Rs. 7.00 per sq.mt. It is pertinent to note that this Court had determined the market rate at Rs.7.00 per sq.mt. in relation to Sec.4 notification published on 21.8.1986 whereas the notification in the instant case is dated about five and half years (5 1/2) later on, namely on 26.3.1992. Further more, there is credible evidence on record to indicate that the lands of the instant village namely Kalyana are relatively more fertile than the lands of village Timba, that the instant village Kalyana is also larger and more populous than village Timba etc. Thus, even if the High Court decision at exh.33 is not specifically applied in the same manner as a comparable sale instance could have been, atleast, the same would provide a baseline from which valuation of the market value arrived at by the Reference Court on the capitalisation method can be compared and tallied. Thus, if a reasonable increment is granted in respect of the lapse of 5 1/2 years, for the lapse of time between relevant notifications under Sec.4 for the village Timba and the instant village Kalyana, the market value of Rs.7.00 per sq.mt. would stand amply justified by enhancement to Rs. 9.50 per sq.mt. for irrigated lands and Rs. 8.50 per sq.mt. for non-irrigated lands.

7. In the overall perspective, we are satisfied that the impugned judgment and awards are reasonable and it cannot be said to be so excessive as to justify interference in the present appeals.

8. No other contentions are raised.

9. These appeals are, therefore, dismissed with no orders as to cost.

10. The appellants are directed to deposit the amount under impugned awards together with costs and interest before the Reference Court separately in each Reference within a period of 4 (four) months from today.

DIRECT SERVICE permitted.

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